

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 08/09/2022
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MALIK DEJESUS,

Petitioner.

-v-

UNITED STATES OF AMERICA,

Respondent.  
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20-cr-00464 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

On August 8, 2022, the Court received Mr. Dejesus's motion seeking pretrial jail credit from the Federal Bureau of Prisons and for appointment of counsel to supplement and perfect the filing for relief. Dkt. No. 45.

A challenge to the "computation of a prisoner's sentence by prison officials" is properly brought pursuant to a writ of habeas corpus under 28 U.S.C. § 2241. *Rivera v. Killian*, 2008 WL 1990093, at \*1 (S.D.N.Y. May 8, 2008) (quoting *Levine v. Apker*, 455 F.3d 71, 78 (2d Cir. 2006)). For a petition brought under § 2241, the proper respondent "is the warden who has physical custody of the defendant" and the "petition must be brought in the district in which the petitioner is incarcerated, not the district in which petitioner was sentenced." *United States v. Vittini-Morey*, 2007 WL 510095, at \*2 (S.D.N.Y. Feb. 15, 2007); *see also Rumsfeld v. Padilla*, 542 U.S. 426, 447 (2004).

Mr. Dejesus is incarcerated at FCI Ray Brook. Accordingly, the proper respondent for this petition is the warden of FCI Ray Brook and the proper venue for Mr. Dejesus's motion is the Northern District of New York, not the Southern District of New York. This Court therefore

lacks jurisdiction over the present action. *Freire v. Terry*, 756 F. Supp. 2d 585, 586 (S.D.N.Y. 2010). Mr. Dejesus may refile his petition in the Northern District of New York against the warden of FCI Ray Brook.

For the foregoing reasons, Mr. Dejesus's motion is denied without prejudice. The Clerk of Court is directed to close Dkt. No. 45 and to mail a copy of this order to Mr. Dejesus.

SO ORDERED.

Dated: August 9, 2022  
New York, New York

A handwritten signature in black ink, appearing to read 'L. Liman', is written over a horizontal line.

LEWIS J. LIMAN  
United States District Judge